IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 14042 of 2004

Between:

Shaik Nagur Basha, S/o.Kalesha Basha,
R/o.Gottigadu Village, Balayapalli, Mandal, Nellore Dist.

..... PETITIONER

AND

1 The Joint Collector, Nellore Dist.
2 The Mandal, Revenue officer, Naidupeta, Nellore Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus or any other appropriate writ or direction declaring that the initiate of an enquiry under section 6A of Essential Commodities Act 1955 in respect of seizure of rice in Crime No.115/04 dated 17-7-2004 by the 1st respondent as illegal, arbitrary and without jurisdiction and consequently direct the respondents to release the rice seized in Cr.No.115/2004 dated 17-7-2004 to the claimants.

Counsel for the Petitioner: MR.P.GANGA RAMI REDDY

Counsel for the Respondent No.: GP FOR CIVIL SUPPLIES

The Court made the following :

ORDER:

The petitioner claims to have been carrying on the works of Panchayat Raj Department along with 50 workers. It is stated that during the months of May and June, 2004 they have executed the works of internal road at Gottigadu village and on 17.07.2004 under the Food For Work scheme the department has given coupons to the workers and rice was released from the fair price shop dealer of Gottigadu village by name Gopal. However, since the rice is not in good condition, they engaged two lorries bearing Nos. AHH 3474 and AP 16T-7666 to transport the rice to Naidupet. During the transit, Sub-Inspector of Police, Naidupet seized the rice on the ground that the same is being illegally transported without valid documents and Crime No.115 of 2004 was registered under Section 7(1) of Essential Commodities Act (for short 'the Act'). The Sub-Inspector of Police, Naidupet handed over the said rice to the second respondent-Mandal Revenue Officer, Naidupet and in pursuance thereof, a report was filed before the first respondent-Joint Collector, Nellore. On the basis of the said report, an enquiry under Section 6-A of the Act was initiated.

The petitioner and other workers filed an application before the first respondent-Joint Collector, Nellore, for release of the rice. However, first respondent without considering their request for release, by order dated 30.07.2004 ordered to shift the seized rice to MLS point. Hence, this writ petition challenging the validity of the seizure dated 17-07-2004 and also the action of the respondents in not releasing the seized stock as requested by the claimants.

I have heard the learned counsel for the petitioner and learned Government Pleader appearing for respondents.

Learned counsel for the petitioner contended that since there is no restriction either as to stocking or movement of rice, the entire action of the respondents is arbitrary and illegal. He further contended that the seizure as well as initiation of the proceedings under Section 6-A of the Act are without jurisdiction. Thus, according to the learned counsel for the petitioner, the first respondent is not justified in not considering the request of the petitioner for release of the seized rice. In support of his contention, he placed reliance upon a decision of this Court in ***SHEELA SRINIVAS V. DISTRICT COLLECTOR, KARIMANAGAR,*** wherein this Court, while considering the notification issued by the Central Government, dated 15.02.2002 and the corresponding memo issued by the State Government, dated 27.03.2002 as well as the circular issued by the Commissioner of Civil Supplies, dated 12.08.2002 stating that even where any Rice Miller is found to have indulged purchasing rice meant for Food for Work, the only course open is to initiate proceedings under the Code of Criminal Procedure, held that the seizure effected in the said case was unsustainable. The said writ petition was accordingly allowed directing the respondents to restore the entire quantity of rice and paddy to the petitioner therein. In the light of the principles laid down by this Court in the said decision, learned counsel for the petitioner submits that the petitioner is entitled for release of the rice.

Since no counter-affidavit is filed by the respondents, though I am not inclined to express any opinion with regard to the claim of the petitioner for release of the seized stock in their favour, I deem it appropriate to dispose of the writ petition with a direction to the first respondent-Joint Collector, Nellore, Nellore District to consider the application made by the petitioner and other

workers for release of rice seized in Cr.No.115 of 2004, dated 17-07-2004 and to pass appropriate orders in accordance with law keeping in view the ratio laid down in SHEELA SRINIVAS's case (1 supra) as expeditiously as possible, preferably within a period of two weeks from the date of receipt of a copy of this order.

Writ Petition is accordingly disposed of. No costs.

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29-09-2004

Note: Issue C.C. in two days.

B/o

klp

To

1 The Joint Collector, Nellore Dist.
2 The Mandal, Revenue officer, Naidupeta, Nellore Dist.

3 2CCs to G.P. for Civil Supplies, High Court buildings,

Hyderabad.(OUT).

4 2CD copies